

# **REMARKS**

Applicants have received and reviewed a final Office Action dated October 27, 2005. The Examiner allowed claims 1-3, 31, 35-38, and 43-46. The Examiner rejected claims 6-9 and 39-42. By way of response, Applicants present the accompanying Declaration and Exhibit and the following remarks.

For the reasons given below, Applicants submit pending claims are in condition for allowance and notification to that effect is earnestly solicited.

## **Rejection of Claims Under §§§ 102(a) and (e) and 103(a)**

The Examiner rejected claims 6, 8, and 39-42 under 35 U.S.C. §§ 102(a) and (e) as anticipated by Hei (US 6,024,986). The Examiner rejected claims 7 and 9 under 35 U.S.C. § 103(a) as being obvious over Hei (US 6,024,986). Applicants respectfully traverse these rejections.

The Hei reference does not qualify as prior art under 35 U.S.C. §§§ 102(a), 102(e), or 103(a). Applicants previously submitted a Declaration under 37 C.F.R. § 1.131 by John D. Hilgren, an inventor, establishing that the presently claimed invention was invented before May 24, 1999, the date of the Hei reference. In this Office Action, the Examiner questioned whether the Hilgren Declaration disclosed the compositions as presently claimed. Applicants hereby submit an additional Declaration under 37 C.F.R. § 1.131 by Mr. Hilgren demonstrating the presently claimed invention is disclosed in the Hilgren Declaration, and was thus invented before May 24, 1999.

The second Hilgren Declaration is accompanied by Exhibit A, which demonstrates Falcon 15 O and Falcon 15 AE were invented prior to the date of the Hei reference. Exhibit A demonstrates the concentrations of compositions disclosed by the Declaration are within the limitations of the presently claimed invention. The following table clarifies what is claimed and what is established in the Declaration:

	<b>Independent Claim 6</b>	<b>Independent Claim 8</b>	<b>Exhibit A of the Hilgren Declaration</b>
<b>ACETIC ACID</b>	about 50-60 wt-%	about 50-60 wt-%	page 34, row 8, page 38 row 20, page 39, rows 10-20, page 41, rows 15-19, page 45, rows 6-23, and page 47, rows 14-19
<b>OCTANOIC ACID</b>	about 10-20 wt%	about 10-20 wt%	page 34, row 11, page 38, row 28, page 39 rows 10-20, page 41, rows 15-19, page 45, rows 6-23, and page 47, rows 14-19
<b>H<sub>2</sub>O<sub>2</sub></b>	about 5-15 wt%	about 5-15 wt%	page 34, row 9, page 38, row 22, page 39 rows 10-20, page 41, rows 15-19, page 45, rows 6-23, and page 47, rows 14-19
<b>CHELATING AGENT</b>	about 0.3-1 wt-%	about 0.3-1 wt-%	page 38, row 13; page 39 rows 10-20, page 41, rows 15-19, and page 45, rows 6-23
<b>RATIO</b>	at least 1 pbw peroxyoctanoic acid for each of about 5 parts of peroxyacetic acid	at least 1 pbw peroxyoctanoic acid for each of about 5 parts of peroxyacetic acid	page 38, rows 8-11 and 24-26, and page 47, rows 14-19

As demonstrated by the enclosed Hilgren Declaration, the presently claimed invention was invented prior to May 24, 1999. Thus, the Hei reference cannot be employed as prior art under §§§ 102(a), 102(e), or 103(a).

Accordingly, based on the foregoing, it is submitted that the Hei reference does not anticipate or make obvious the present compositions and withdrawal of these rejections is respectfully requested.

**Summary**

In summary, Applicants submit that each of claims 1-3, 6-9, 31, and 35-46 are in condition for allowance. The Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below, if the Examiner believes that doing so will expedite prosecution of this application.

Respectfully submitted,

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By: \_\_\_\_\_

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